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National Endowment for the Arts

Limited English Proficiency Plan

November 2023

National Endowment for the Arts (NEA)

2023 Limited English Proficiency Plan to Improve Programs and Activities by Limited English Proficiency (LEP) Persons

Introduction

On August 11, 2000, President Clinton signed Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency.” This is the primary Executive Order with respect to federal agencies’ provision of language assistance services to persons with limited English proficiency (LEP). In addition, recent equity Executive Orders also underscore the need to ensure that persons with LEP have access to federally-conducted programs and activities (as well as the Endowment’s own Equity Plan). For example:

- Advancing Racial Equity and Support for Underserved Communities through the Federal Government, 86 Fed. Reg. 14, 7009 (Jan. 20, 2021) (Persons with LEP could be considered “underserved communities” and this Order asks agencies to consider “[p]otential barriers that underserved communities and individuals may face to enrollment in and access to benefits and services in Federal programs.”), available at <https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf>;
- Executive Order 14031, Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders, 86 Fed. Reg. 105, 29675 (June 3, 2021) (“Linguistic isolation and lack of access to language assistance services continue to lock many AA and NHPI individuals out of opportunity”) available at <https://www.govinfo.gov/content/pkg/FR-2021-06-03/pdf/2021-11792.pdf>; or
- Executive Order 14091, Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, 88 Fed. Reg. 35, 10825 (Feb. 22, 2023) (“[I]mprove language access services to ensure that all communities can engage with agencies’ respective civil rights offices, including by fully implementing Executive Order 13166”) available at <https://www.govinfo.gov/content/pkg/FR-2023-02-22/pdf/2023-03779.pdf>.

Who is a Limited English Proficient (LEP) individual? Individuals who do not speak English as their primary language and who may have a limited ability to read, speak, or understand English can be LEP, or entitled to language assistance with respect to a particular type of service benefit, or encounter.

The National Endowment for the Arts (NEA) or the Endowment, is committed to extending its own services and outreach to LEP populations, at the same time that it steps up its efforts to assist recipients with LEP issue Executive Order 13166.

Individuals who have a limited ability to read, speak, write, or understand English are entitled to obtain meaningful access to Endowment programs and activities.

The Endowment's strategy for improving language accessibility of both its programs and the programs it funds is fourfold. First, we will adhere to internal mechanisms for handling translation requests. Second, we will encourage outreach to LEP populations in all our grant programs. Third, we will enhance technical assistance for LEP applicants and improve LEP application review. Finally, we will enhance technical assistance for all grant recipients on LEP issues.

Limited English Proficiency Plan Glossary

- Direct “In-Language” Communication. Monolingual communication in a language other than English between a multilingual staff and a person with LEP (e.g., Korean to Korean).
- Interpretation. The act of listening, understanding, analyzing, and processing a spoken communication in one language (source language) and then faithfully orally rendering it into another spoken language (target language) while retaining the same meaning.
- Limited English Proficiency (LEP). Describes individuals who do not speak English as their primary language, and have a limited ability to read, write, speak, or understand English. Individuals with LEP may be competent in English for certain types of communication (e.g., speaking or understanding), but have limited proficiency in English in other areas (e.g., reading or writing). LEP designations are also context-specific; an individual may possess sufficient English language skills to function in one setting (e.g., conversing with coworkers), but these skills may be insufficient in other settings (e.g., court proceedings). An individual who is D/HOH may also have limited proficiency in spoken or written English and may not be proficient in ASL or any other recognized sign language.
- Language Assistance Services. Oral and written services used to provide individuals with LEP meaningful access to, and an equal opportunity to participate fully in, the NEA's services, activities, and other programs.
- Meaningful Access. Language assistance that results in accurate, timely, and effective communication at no cost to the individual with LEP needing assistance. Meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English-proficient individuals.
- Primary Language. The language in which an individual most effectively communicates when interacting with the NEA. An individual's primary language may be a language variant.

- Sight Translation. Oral or signed rendering of written text into spoken or signed language by an interpreter without change in meaning based on a visual review of the original text or document.
- Translation. The process of converting written text from a source language into an equivalent written text in a target language as fully and accurately as possible while maintaining the style, tone, and intent of the text, while considering differences of culture and dialect.
- Vital Document. Paper or electronic written material that contains information that is critical for accessing a component's programs or activities or is required by law.

I. Procedures for handling translation requests

Assignment of Responsibility

The roles and responsibilities of those responsible for implementing the Endowment Language Access Plan are as follows:

- **Office of Civil Rights and Equal Opportunity (OCREO)** - owns the language access plan and compliance with Executive Order 13166, Title VI of the Civil Rights Act of 1964, Department of Justice LEP Guidance 67 FR 41455-41472. Contact: civilrights@arts.gov
- **Office of Public Affairs (OPA)** - handles a request for publication regarding written translation. Contact: opa@arts.gov
- **Office of the Chief of Staff (COS)** - guides staff and provide resources on language issues for recipients, supervise the provision of technical assistance, and receive, evaluate, monitor, and coordinate requests for written translation. It will also identify the need for funding and supporting the acquisition of language services. Contact: chiefofstaff@arts.gov
- **All Endowment Divisions** with public-facing engagement are responsible for providing input to the requirements for language assistance services and ensuring compliance with the Endowment's procedures.

On occasion, the Endowment receives phone calls from individuals with limited English skills. The agency's standard practice is for a bilingual staff member to handle these calls and direct these individuals to the appropriate area within the agency. To date, this practice appears to work relatively well. In addition, the Office of General Counsel will serve as the staff contact for handling requests regarding more formal interpretation

A. Assessment of Translation Requests

The Endowment will assess translation requests for its publications and services according to the four factors:

1. Number and proportion of eligible LEP recipients

First, the Endowment will assess the language assistance needs of its direct constituents. Our preliminary assessment, based on experience, is that the Endowment has a very small direct LEP constituency. We will continue to refine this assessment; we project that our LEP constituency may grow as our services improve.

a. Organizations

The vast majority of the Endowment's applicants and recipients are organizations, such as 501c3 nonprofit arts organizations, units of state/local government, and federally recognized tribes. While many of these organizations are culturally specific, virtually all have English-speaking staff, and very few would be described as limited English proficient. At present, the Endowment's only known non-English-speaking constituent bloc is Spanish-speaking recipients, primarily in Puerto Rico. As with other culturally specific organizations, virtually all of these Puerto Rican organizations have English-speaking staff. One category that presents a unique situation is the Arts Indemnity Program, which indemnifies U.S. museums borrowing items from abroad. On occasion, the Endowment receives requests for translation on behalf of the international lenders. The Endowment has worked with recipients, the State Department, and occasionally private translators, for limited translation of regulations and key program documents. However, these translation services are unrelated to the Title VI needs of U.S.-based LEP individuals or organizations.

b. Individuals

The Endowment does not, at present, award grants to individuals except in three narrow categories: Literature fellowships (including translation fellowships) and two honorific awards, National Heritage Fellows and NEA Jazz Masters Fellowships.

NEA Jazz Masters have not historically included any LEP individuals. Each year, several Heritage Fellows might be characterized as LEP, typically Spanish-speaking, but frequently including speakers of other European languages, Asian languages, and Native American languages. They are assisted by interpreters and therefore have not posed any significant difficulty.

Literature fellowship applications are accepted from writers who write in languages other than English. We require that at least half of the manuscript be translated into English. The process mirrors, to the extent appropriate, the process for applications in English. Three bilingual readers read each manuscript. If one of them recommends the manuscript, it goes to three other bilingual readers; the manuscript (along with the six written critiques) is then discussed at the panel meeting by the panelists, who make a recommendation for rejection or acceptance. If possible,

the readers are a mix of individuals serving on the year's panel, or individuals who have served recently and have an idea about the competitiveness of the process.

Applicants for Literature fellowships for translation are by definition bilingual. However, the Endowment's experience in administration of this ongoing program may preview some of the challenges in providing broader Endowment services to LEP populations.

The Endowment also receives inquiries from individual members of the public, by telephone, by email, and in writing. These requests, to date, have been almost exclusively in English. Offices that receive occasional inquiries in other languages have established mechanisms to manage them. The Grants Office, in particular, occasionally receives telephone inquiries in Spanish, typically from recipients' staff.

2. Frequency of contact

Requests for language access are infrequent, including requests for translation of the guidelines. Typically, agency requests for translation services of any kind are rare.

3. Nature and importance of the benefit/service/program

Access to Endowment programs typically do not present life or death issues, but an organization's access to Endowment funding may have implications for its programs and for access to other funding sources. Accordingly, the Endowment's general inclination will be to translate "vital" documents for public use, at least in part. A document will be considered vital if it conveys or collects information that is essential for accessing the Endowment's services. Vital documents will be translated when a significant number or percentage of the population eligible to be served, or likely to be directly affected by the program, needs services or information in a language other than English to communicate effectively. For longer documents, translation of vital information contained within the document will suffice and the documents need not be translated in their entirety.

It is likely that the only Endowment documents that might be considered "vital" enough to be translated in part are the funding guidelines and possibly other forms. At present, guidelines are available in English and Spanish. There have been no subsequent requests for translation of the guidelines. The Endowment will apply the other factors to determine what portion, if any, of the guidelines or other forms should be translated, and into which language. For example, we may determine that only the actual application forms and instructions, and not the detailed guidelines on the application review process, are "vital."

However, the Endowment will look to the nature of the specific document in making the determination on translation. For example, publications specifically designed for outreach might be appropriate for translation even if not "vital."

4. NEA's Language Assistance Service

For a discretionary grantmaking agency such as the Endowment, language accessibility can involve three layers: translation of guidelines, translation of applications, and translation within the panel process. The Endowment does not have a one-size-fits-all approach to language assistance services due to the unique nature of each program.

Mechanisms for Translation

Once we receive a request for translation, we will assess what technique is appropriate: written, oral, the use of a contract, or use of a language vendor database.

1. Written Translation

The Endowment has established mechanisms for translations of guidelines and other Endowment documents. We also contract with translators in an array of languages for literature translation fellowships. We will both look to these experiences and contract with translators on the GSA schedule as needed.

2. Oral Translation services

We also have established a mechanism to contract for oral translations, such as a telephone language interpretation service.

3. Translation Assistance

We are continuing to investigate mechanisms for the Endowment to work with other agencies, arts service organizations, LEP-serving organizations, and recipients to enhance the Endowment's capacity for translation and interpretation and to develop technical assistance materials. The Endowment's Arts Indemnity Program, which has worked with grantees, the State Department, and occasionally private translators on translation issues, presents a successful model of these translation partnerships.

4. Language Vendor Database

The language vendor data base is kept within the Office of the Chief of Staff (chiefofstaff@arts.gov). At this time the NEA's main grant guidelines are offered in Spanish. However, we are prepared to translate funding guidelines into other languages upon request. Funding is provided by the offices that manage each program. For example, guidelines translation is funded by the Office of Grants Panel Operations (OGPO), and event funding comes from event budgets and other program support funds. The Contracting Officer's Representative and point of contact these for contracts is within the chief of staff's office.

Guidance for staff who are likely to interact with individuals with LEP will be provided from within the Office of the Chief of staff. Such guidance will include the following:

- Identifying the language needs of an LEP individual;
- Working with an interpreter;
- Requesting documents for translation;
- Accessing and providing language assistance services through multilingual employees or contracted personnel;
- Interpreter ethics;
- Tracking the use of language assistance services;
- Tips on providing effective assistance to LEP individuals.

Minimal linguist considerations of competency in light of particular tasks may include (applies to contractors):

- Demonstrated proficiency in and ability to communicate information accurately in both English and the other language.
- Identifying and employing the appropriate mode of interpreting (e.g., consecutive, simultaneous, or sight translation), translating, or communicating fluently in the target language.
- Knowledge in both languages of any specialized terms or concepts particular to the component's program or activity and of any particularized vocabulary used by the LEP person.
- Understanding and following confidentiality, impartiality, and ethics rules to the same extent as Endowment staff.
- Understanding and adhering to their role as interpreters, translators, or multilingual staff.

II. Encourage Outreach to LEP Populations

When assessing potential barriers related to language access, in addition to ongoing formal and informal communications with NEA staff by grantees, panelists, and applicants, the NEA makes it a priority to engage various external stakeholders such as Native American and Hispanic arts leaders.

Past examples include NEA-hosted convenings, consultations, and round-table discussions with Tribal/Native American arts stakeholders, and targeted engagement with Spanish speaking communities such as participation at the Hispanic Colleges and Universities conference.

Through this and other direct engagement efforts, the NEA was able to identify language access related barriers and proposed actions in response to these barriers. The robust collective feedback helped to inform the proactive translation measures that have been implemented by the agency and established a process for ongoing engagement and future improvements based on need. The NEA will conduct regular consultation with limited English proficiency serving communities and stakeholders and track application success rates.

The Endowment will also ensure that its leadership initiatives and outreach programs are extended and targeted, where appropriate, to populations with limited English proficiency and will ensure that all grant programs encourage such outreach.

Currently, the NEA staff has established a clear process for having materials translated when needed, and is equipped with resources to provide language interpretation and access services (including ASL and captions) for live events (webinars, public programs, panel meetings, etc.) as needed. Flagship public events are equipped with translation (including captioning/subtitles) and will have ASL and Spanish interpretation services available to audience members to facilitate full participation in agency events.

Starting in 2023, the NEA will monitor and report on outputs as part of its annual tracking of progress. Monitored outputs may include the number of applications received and adjudicated by the NEA from organizations serving people with disabilities, and Native American and Hispanic-serving organizations, as well as the success rate of these applications. Agency monitoring may also include language translation requests, as well as the number of people who access Spanish language guidelines, webinars, and other grant-related resources.

Outreach programs in support of populations with LEP include ongoing strategic engagement with minority serving institutions and organizations, as well as comprehensive public relations efforts. Outreach efforts will include training for NEA staff to learn more about effective strategies to reach diverse media and strengthen outreach to diverse organizations, media outlets, and opinion leaders.

The NEA also plans to address disparities between the availability of arts programming and the participation of underserved groups, including limited English proficiency populations, by investing in a pilot initiative that will support arts organizations that have demonstrated consistent engagement with underserved communities. This initiative will utilize Regional Arts Organizations (RAOs) to support leaders of arts-based equity-focused organizations through “capacity-building” subgrants, learning opportunities, and peer network-building. The goal of these “capacity-building” subgrants is to support continued engagement with underserved communities, including outreach, marketing and advertising improvements to organizations’ abilities to engage effectively with underserved communities. Organization support may also include strategic planning, equity planning, field research, stakeholder engagement, and cultural competency training. This pilot program is scheduled to launch Fall 2023.

In 5-8 years, we anticipate that the NEA will be seen as one of the primary drivers of equity for populations with LEP in the arts by building on previous success and deepening the work.

Finally, the Endowment has revised key guidance documents to encourage and emphasize LEP services. The agency’s grant and cooperative agreement guidelines reference LEP services:

- The review criteria include an impact assessment, which includes LEP populations.
- Translation services are listed as an example of a permissible cost in sample budgets.
- The nondiscrimination assurances specifically reference LEP in the description of Title VI coverage, with a named contact for further information.

The General Terms & Conditions, which govern all grants and cooperative agreements, have been similarly revised to specifically reference LEP in the description of Title VI and to identify a staff contact.

III. Improve LEP Application Review and Enhance Technical Assistance for LEP Applicants

A. Improve LEP Application Review

Under the Endowment's authorizing legislation, application review panels are required to be culturally diverse. Our panel database reflects other languages that a panelist speaks and staff can search by language, which facilitates both general panel diversity and the specific need for bilingual panelists.

Applications must be submitted in English, but occasional work samples or a description of artwork may be submitted in a different language. In these cases, our practice is to have at least one bilingual panelist serve as a resource on that application and assist other panelists in evaluating it.

B. Enhance Technical Assistance for LEP Applicants

We will continue to refine mechanisms to provide technical assistance in other languages to the same degree that we provide it in English, and to publicize this assistance. Technical assistance continues to expand at the NEA, and includes online webinar grant workshops, online office hours with Q&A opportunities, and on-site grants workshops at field conferences. Recorded webinars and workshops are also saved on YouTube where viewers can select the translation option on the platform.

At present, most technical assistance is informal oral assistance, by telephone, at the pre-application phase. This could be provided to LEP applicants through the use of bilingual staff or contract interpreters.

A second key form of technical assistance is the provision of summaries of panel comments, on request, to rejected applicants; and typically, this feedback is provided orally. The Endowment will investigate the possibility of providing such feedback in other languages, on reasonable request, to LEP applicants, perhaps through a telephone translation service.

IV. Provide LEP Technical Assistance for Funding Recipients

The Endowment's primary technical assistance efforts will be focused on helping recipients find creative ways to increase language accessibility without jeopardizing their projects. The <http://www.lep.gov> website is a key resource for both applicants and recipients. The Endowment's guidelines and its General Terms & Conditions expressly refer applicants and recipients to this website.

Technical assistance will need to be tailored not only by size, nature, and location of organization, but also by the field. Some arts disciplines, like theater and literature, are quite language-dependent. Except when a program is specifically designed to be multilingual, these programs probably have minimal language accessibility. Other arts disciplines, such as visual arts, dance, and music, transcend language and are likely extremely accessible. Yet other

disciplines have long experience with translation issues: for example, traditional opera has developed surtitling, larger museums often have exhibit labels and tours in multiple languages, and media addresses language issues through subtitling and dubbing. The Endowment will focus on clarifying requirements and identifying "best practices" for different types of organizations.

Like translation requests, technical assistance will be handled by the relevant office. The Dance staff, for example, would handle a request from a dance organization. The Endowment's Office of General Counsel will serve as the identified centralized staff contact, will coordinate staff training and the development of resources on language issues for recipients, and will supervise the provision of technical assistance.

The Endowment will also investigate further education of grantees on language inclusiveness. For example, because arts education projects may generate particular language access concerns, we could distribute Department of Education materials on bilingual education or produce materials specifically addressing bilingual arts education issues. Finally, we could develop materials specifically targeted to enhance language inclusiveness, including a description of language access requirements in the civil rights portion of our website.

The Endowment shall take reasonable steps to provide individuals with LEP with meaningful access to the agency's vital digital content. This may include our website content, grant application information, publications, press releases, etc.

Complaints of language discrimination will be handled by the Office of Civil Rights. Language discrimination complaints will be handled on a case-by-case basis, by fact-intensive inquiry into the actual effects of the recipient's actions and inactions on persons with limited English proficiency. Balancing the factors in the policy statement -- the number or proportion of people with limited English skills served, the frequency of their contact with the program, the importance and nature of the program, and the resources available -- the Endowment's recipients are typically in a very different situation than public education or health care. In most instances, Endowment recipients' Title VI obligations will be satisfied by making available oral assistance or commissioning translations under appropriate circumstances.

This Language Access Plan will be posted online and accessible to employees and members of the public on the Open Government Page.

Maturing NEA's Language Assistance Capabilities

The Endowment is committed to taking the necessary steps that better enable the agency to apply the guidance established by the Department of Justice (DOJ) for identifying and addressing the language assistance needs of LEP persons. The guidance is grounded in four analytical factors: 1) Number or proportion of LEP persons eligible to be served or likely to be encountered; 2)

Frequency with which LEP persons come in contact with our programs or activities; and 3) Resources available and costs.¹

The Endowment must also ensure it implements solutions that are feasible and reflect good stewardship of tax-payer resources. Therefore, NEA aims to ensure it has the access to the information needed to make the best decisions for providing services to LEP individuals. Over the course of the next two years (i.e., by the end of 2025), the NEA will take the following steps to fully employ the guidance set forth by the DOJ and improve access to services for persons with limited English proficiency.

Objective 1: Improve NEA’s ability to identify the population of LEP stakeholders.

- Action 1.1: Identify data source for NEA’s stakeholder population demographics.
- Action 1.2: Track the number of requests/inquiries for language translation services.
- Action 1.3: Track the languages requested for use of language translation services.

Objective 2: Increase access of language assistance services for NEA’s programs or activities.

- Action 2.1: Establish sources for NEA staff to obtain language translation services.
- Action 2.2: Develop a policy that guides NEA programs in obtaining and delivering language translation services (i.e. vital documents and information).
- Action 2.3: Ensure staff are trained on how to access language translation services.
- Action 2.4: Improve notifications to the public about available NEA language assistance services.
- Action 2.5: Establish quality standards for language translation services provided to NEA.

Objective 3: Create efficiencies in the acquisition and sustainment of NEA’s language assistance services.

- Action 3.1: Periodically review and evaluate the availability of automated language translation technologies and services.
- Action 3.2: Establish a recurring schedule to review and evaluate NEA language access capabilities against requirements.

¹ See Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 FR 41464-65 (June 18, 2002). (hereinafter “2002 DOJ Guidance”), <http://www.justice.gov/crt/about/cor/lep/DOJFinLEPFRJun182002.pdf>

Implementation Plan

| Action | Assigned To | Date Due |
|--|-------------|----------|
| • Action 1.1: Identify data source for NEA's stakeholder population demographics | COS | COMPLETE |
| • Action 1.2: Track the number of requests/inquiries for language translation services. | COS | OCT 2024 |
| • Action 1.3: Track the languages requested for use of language translation services. | COS | OCT 2024 |
| • Action 2.1: Establish sources for NEA staff to obtain language translation services. | COS | COMPLETE |
| • Action 2.2: Develop a policy that guides NEA programs in obtaining and delivering language translation services. | OCREEO | MAR 2024 |
| • Action 2.3: Ensure staff are trained on how to access language translation services. | COS | MAR 2024 |
| • Action 2.4: Improve notifications to the public about available NEA language assistance services. | COS | MAR 2024 |
| • Action 2.5: Establish quality standards for language translation services provided to NEA. | COS | COMPLETE |
| • Action 3.1: Periodically review and evaluate the availability of automated language translation technologies and services. | OCREEO | Annually |
| • Action 3.2: Establish a recurring schedule to review and evaluate NEA language access capabilities against requirements. | OCREEO | Annually |